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FILE:

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Office: NEBRASKA SERVICE CENTER

Date: MAY 04 2009

IN RE:

Petitioner:

Beneficiary:

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

*J. F. Grissom*  
John F. Grissom

Acting Chief, Administrative Appeals Office

**DISCUSSION:** The Director, Nebraska Service Center, denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will dismiss the appeal.

The petitioner seeks classification pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2), as a member of the professions holding an advanced degree. The petitioner refers to himself as a “Legal Expert [on] International Law of the Sea and International Relations.” The petitioner asserts that an exemption from the requirement of a job offer, and thus of a labor certification, is in the national interest of the United States. The director found that the petitioner qualifies for classification as a member of the professions holding an advanced degree, but that the petitioner has not established that an exemption from the requirement of a job offer would be in the national interest of the United States.

On appeal, the petitioner submits a personal statement and a new witness letter. The petitioner indicates that a brief will be forthcoming within 30 days. To date, seven months after the filing of the appeal on September 2, 2008, the record contains no further substantive submission from the petitioner. We therefore consider the record to be complete as it now stands.

Section 203(b) of the Act states, in pertinent part:

(2) Aliens Who Are Members of the Professions Holding Advanced Degrees or Aliens of Exceptional Ability. --

(A) In General. -- Visas shall be made available . . . to qualified immigrants who are members of the professions holding advanced degrees or their equivalent or who because of their exceptional ability in the sciences, arts, or business, will substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States, and whose services in the sciences, arts, professions, or business are sought by an employer in the United States.

(B) Waiver of Job Offer.

(i) . . . the Attorney General may, when the Attorney General deems it to be in the national interest, waive the requirements of subparagraph (A) that an alien’s services in the sciences, arts, professions, or business be sought by an employer in the United States.

The director did not dispute that the petitioner qualifies as a member of the professions holding an advanced degree. The sole issue in contention is whether the petitioner has established that a waiver of the job offer requirement, and thus a labor certification, is in the national interest.

Neither the statute nor the pertinent regulations define the term “national interest.” Additionally, Congress did not provide a specific definition of “in the national interest.” The Committee on the

Judiciary merely noted in its report to the Senate that the committee had “focused on national interest by increasing the number and proportion of visas for immigrants who would benefit the United States economically and otherwise. . . .” S. Rep. No. 55, 101st Cong., 1st Sess., 11 (1989). Supplementary information to regulations implementing the Immigration Act of 1990 (IMMACT), published at 56 Fed. Reg. 60897, 60900 (November 29, 1991), states:

The Service [now U.S. Citizenship and Immigration Services] believes it appropriate to leave the application of this test as flexible as possible, although clearly an alien seeking to meet the [national interest] standard must make a showing significantly above that necessary to prove the “prospective national benefit” [required of aliens seeking to qualify as “exceptional.”] The burden will rest with the alien to establish that exemption from, or waiver of, the job offer will be in the national interest. Each case is to be judged on its own merits.

*Matter of New York State Dept. of Transportation*, 22 I&N Dec. 215 (Commr. 1998), has set forth several factors which must be considered when evaluating a request for a national interest waiver. First, it must be shown that the alien seeks employment in an area of substantial intrinsic merit. Next, it must be shown that the proposed benefit will be national in scope. Finally, the petitioner seeking the waiver must establish that the alien will serve the national interest to a substantially greater degree than would an available U.S. worker having the same minimum qualifications.

It must be noted that, while the national interest waiver hinges on prospective national benefit, it clearly must be established that the alien’s past record justifies projections of future benefit to the national interest. The petitioner’s subjective assurance that the alien will, in the future, serve the national interest cannot suffice to establish prospective national benefit. The inclusion of the term “prospective” is used here to require future contributions by the alien, rather than to facilitate the entry of an alien whose benefit to the national interest would thus be entirely speculative.

We also note that the regulation at 8 C.F.R. § 204.5(k)(2) defines “exceptional ability” as “a degree of expertise significantly above that ordinarily encountered” in a given area of endeavor. By statute, aliens of exceptional ability are generally subject to the job offer/labor certification requirement; they are not exempt by virtue of their exceptional ability. Therefore, whether a given alien seeks classification as an alien of exceptional ability, or as a member of the professions holding an advanced degree, that alien cannot qualify for a waiver just by demonstrating a degree of expertise significantly above that ordinarily encountered in his or her field of expertise.

The petitioner filed the Form I-140 petition on June 4, 2007. On that form, instructed to provide a brief job description, the petitioner stated: “Provision of legal advice related to delimitation of extended Continental Shelf and related In. Law of the Sea issues, Application of International investment law, Application of International Humanitarian law in combatting [*sic*] terrorism.”

The petitioner listed his various professional positions and duties, including the following excerpts:

Legal Officer (International Law), Legal Adviser's Division of the Ministry of Foreign Affairs of Sri Lanka (from 1 November 2003) and deal with public International Law issues in my day-to-day functions, which includes [*sic*]:

- Furnishing legal advice on matters of International Law through the Secretary / Foreign Affairs to the Minister of Foreign Affairs and to the Divisions of the Ministry of Foreign Affairs
- Participation in negotiations and conclusions of International Agreements
- Advising in connection with the negotiation and implementation of any Treaty to which Sri Lanka is a Party.

Coordinated the work of the Sri Lanka's DEOCOM project since the Ministry of Foreign Affairs has been identified as the focal Ministry responsible in the preparation of Sri Lanka's claim to the UN Commission on the Continental Shelf. . . .

- Research Fellow under the United Nations Fellowship Programme on Law of the Sea (28 May 2006 to 20 April 2007). Six months supervised research with Professor of Law, Betsy Baker, Harvard law School and at the United Nations Division for Ocean Affairs and Law of Sea, Office of Legal Affairs of United Nations in UNHQ, New York. . . .

Served as the Representative of the Government of Sri Lanka at the four meetings of the South Asian Association for Regional Co-operation (SAARC) Legal Experts Committee in 2005 on Investment and Dispute Settlement. . . .

Served as a Member of the hi-level [*sic*] Sri Lanka Delegation that negotiated the India-Sri Lanka Defence Cooperation Agreement and MOU on Palaly Airbase.

Member of the hi-level [*sic*] Sri Lanka Delegation which currently negotiates the Indo-Lanka Comprehensive Economic Partnership Agreement (CEPA)

Member of the Sri Lanka Delegation, which negotiated Air Services Agreements with Austria, Bangladesh, China and Thailand.

Member of the Sri Lanka Delegations for bilateral discussions with India, Maldives, Bangladesh, Burma and Indonesia concerning the proposed Sethusamuduram Ship Channel Project and the Continental Shelf Claim to be submitted to the UN.

In a statement accompanying the initial filing of the petition, the petitioner stated: "I request [a] National Interest waiver of a job offer and labor certification because the delays associated with such a process would be detrimental to the interest of the United States." The petitioner did not explain why he could not perform his functions as a nonimmigrant (as he is doing now) while an application for labor certification is pending. Nothing in the legislative history suggests that the national interest waiver was intended simply as a means for employers (or self-petitioning aliens) to avoid the

inconvenience of the labor certification process. *Matter of New York State Dept. of Transportation* at 223.

Regarding his qualifications, the petitioner stated:

I am an expert in International Law with experience in initially [sic] in Asia, then in Europe and now in the United States. . . .

I have a uniquely relevant work experience in application of Law of the Sea in relation to delimitation of the outer limits of the extended continental shelf as well as public international law in particular International Humanitarian Law and International Investment Law. I have worked for the United Nations Division of Ocean Affairs and Law of the Sea at its headquarters in New York as well as been the Legal Advisor and Legal Officer (International Law) of the Ministry of Foreign Affairs in Sri Lanka.

My expertise makes me one of the very few persons able to analyze legality of country claims on its ocean jurisdictional boundaries and in particular extended continental shelf and related claims on oil and other energy resources. Under the binding requirements of the UN Convention on law of the sea, countries are required to submit their claims of extended continental shelf before the [sic] 13 May 2009 to the UN Commission on the Limits of the Continental Shelf. This has made me a sought after legal expert by countries around the world.

Furthermore, given my expertise and experience I am considered as an authoritative consultant and advisor on many other international law issues exclusively relevant to USA in the areas of International humanitarian law and International law on Investments. Some books I have published related to my work has [sic] been released in the US.

The petitioner noted “the recent seizure of 15 UK sailors by Iran for allegedly crossing into Iranian territorial waters,” and claimed that the issues surrounding such crises “can only be answered by persons in the caliber of me [sic] having knowledge and a unique combination of Diplomatic relations, Law of the Sea and Humanitarian Law.” The petitioner also discussed recent disputes regarding access to hydrocarbon resources beneath the Arctic Sea, and stated his intention of “working close [sic] with the authorities of US in analyzing the areas of concern and potential problems endangering national interest of US in light of maritime boundaries going to be established by the neighboring countries that are of strategic interest to us.” The petitioner also asserted that his “advanced knowledge in the practical aspect of applying international humanitarian law to terrorist suspects” would benefit the United States.

Along with copies of his credentials, the petitioner submitted several witness letters with the initial filing of the petition. All of the witnesses have had close contact with the petitioner in varying

capacities. Several of the letters were written well before the petition's June 2007 filing date, for reasons unrelated to the petition. For example, a March 6, 2006 letter from [REDACTED] of the University of Colombo, Sri Lanka, recommended the petitioner "for the intended advanced research programme," while an October 12, 2006 letter from [REDACTED] also of the University of Colombo, includes a passage that reads "I understand that he has now applied for a Ph.D. program at your prestigious university." In a letter dated April 19, 2002, more than five years before the filing of the petition, Chief Justice Sarath N. Silva of Sri Lanka's Supreme Court stated that the petitioner "has a deep and abiding interest in the law and with the march of time, he will do well in the profession."

[REDACTED], an attorney now based in Auburndale, Massachusetts, stated:

I have known [the petitioner] for over 10 years. . . . I first came to know [the petitioner] when I addressed the Law Students Union (LSU) of Sri Lanka in 1995. [The petitioner] was the President of the LSU at that time. He was my student at the University of Colombo when he followed the Post-graduate Diploma in Forensic Medicine. . . . He is currently a mid-career professional attached to the Ministry of Foreign Affairs. He has been a very productive advisor in matters of International Law to the Government of Sri Lanka.

. . . During the regular interactions I had with him, I have learnt that [the petitioner] would be an asset in no small way to the United States if he is given the opportunity to remain in the United States and continue in his field.

[REDACTED], President's Counsel in Sri Lanka, stated:

[The petitioner] has been of great assistance during the five years he practiced with me. He has a strong sense of responsibility and all the qualities needed for a clever trial lawyer. He successfully argued matters before [the] Supreme Court and Court of Appeal and conducted trials in High Court by showing great promise. He earned the respect of judges for his clarity of style and enthusiasm. However to my dismay [the petitioner] left the private Bar in 2002 to pursue a career in international law.

. . . I am familiar with [the petitioner's] exceptional achievements and superior capabilities in his intrinsic fields of expertise, the international law of the sea and international humanitarian law and it would be in the national interest of this great nation if he is allowed to serve in the US.

[REDACTED] supervised the petitioner's master's studies at the University of Groningen, the Netherlands. [REDACTED] stated that the petitioner "complet[ed] his Masters thesis . . . in a highly exemplary manner" and has since "been a very constructive advisor on matters of Public International Law to the Government of Sri Lanka."

██████████, Secretary-General of the Iran-United States Claims Tribunal and former Chairman of the International Law Commission at The Hague, the Netherlands, stated:

[The petitioner] was initially attached to the chambers of one of my close friends, ██████████ a much respected senior President's Counsel in Sri Lanka. I learnt that [the petitioner] had a promising career in the private Bar where he argued matters before Supreme Court and Court of Appeal and conducted trials in High Court before pursuing higher studies in his chosen field of expertise, international law. . . .

During the period he studied in The Hague, I also had the opportunity to have the services of [the petitioner] in preparing briefs for the claims before the Iran-United States Claims Tribunal. He has been of great assistance in Tribunal's efforts to strengthen the international law. He impressed me as a young scholar capable of dealing with intricate issues both on the law and facts. . . .

[The petitioner] had gathered the unique experience, only handful of persons can posses [sic] as the representative of the Government of Sri Lanka in advising with the negotiation and implementation of any treaty to which Sri Lanka is a party, which could be used in benefit of . . . the United States.

██████████, Assistant Dean for the Graduate Program and International Legal Studies at Harvard Law School, Cambridge, Massachusetts, stated:

[The petitioner] came under direct supervision of me when he conducted a research study at Harvard Law School as a United Nations – The Nippon Foundation Fellow on Law of the Sea from June 2006 to January 2007. . . .

I have been very pleased with the outcome of research work that [the petitioner] carried on behalf his [sic] Government. . . . I found him to be well equipped to handle such a research [sic] on a complex and evolving subject of international law of the sea.

██████████, Director of the Division for Ocean Affairs and the Law of the Sea at the UN Office of Legal Affairs, stated that the petitioner "came under the direct supervision of me" during the petitioner's 2006-2007 research fellowship. ██████████ stated that the petitioner "has an advanced awareness and understanding of key issues and best international practices in ocean affairs management, including professional and managerial capacities and competencies," and concluded that the petitioner's "well-reasoned analysis on the evolving law of the sea obligations would be of special interest to legal scholars and practitioners of law of the sea."

██████████ Programme Advisor at the UN Office of Legal Affairs, stated that the petitioner "assisted me in preparing briefs for the United Nations Commission on Delimitation of Continental Shelf and other work related to ocean affairs and law of the sea." ██████████ added: "I am certain

that his paper on the evolving International law obligations and the Sethusamudram Ship Channel Project would be immensely useful to the Government of Sri Lanka.”

The letters show that the petitioner has undergone advanced training, with rare opportunities for high-level work with the Sri Lankan government and the UN, but experience of this kind is not, on its face, presumptive evidence of eligibility for the waiver. The witnesses detailed the petitioner’s training and experience, but with minimal discussion of the petitioner’s specific accomplishments.

The petitioner also submitted copies of his writings, both published and unpublished, but with no evidence as to the impact or significance of these materials. The writings do not, by their mere existence, demonstrate the petitioner’s eligibility for the waiver. The petitioner has not shown how these materials have affected international relations, the law of the sea, human rights law, or other subjects on which the petitioner has touched. It cannot suffice for the petitioner to show that he possesses professional training in an important field of endeavor; he must also show that it is in the national interest for him, in particular, to engage in that field in the United States.

On April 8, 2008, the director issued a request for evidence (RFE). The director advised the petitioner: “Regardless of your particular experience or skills, even assuming they are unique, you must establish that the benefit which you will provide to the United States so outweighs the national interest in protecting U.S. workers through the labor certification process that the process should not be required in your case.”

The director instructed the petitioner to support his claims, stating, for instance:

You wrote that you are “a sought after legal expert by countries around the world.” Please submit copies of the correspondence which you have received from outside the United States asking you to serve as a legal expert.

. . . Please submit documentary evidence that any government other than that of Sri Lanka has considered your opinions as authoritative.

The director also instructed the petitioner to establish the impact of his publications.

In response, the petitioner discussed the overall importance of his area of expertise, and stated: “I have [a] considerable degree of influence and expertise in some major provisions that were pressed by the Law of the Sea Convention for the United States to accept.” The petitioner asserted: “once my immigration status is resolved I have the chance of becoming a part of U.S. authorities resolving issues and drafting implementing legislation.” The petitioner did not demonstrate that “U.S. authorities” have, thus far, expressed any intention of using the petitioner’s services in this regard. Even then, the petitioner acknowledges that this involvement would first require that the United States join various international agreements which, to date, the United States has not done. The petitioner thus indicates that his proposed national benefit is contingent on diplomatic factors beyond his apparent control.



The petitioner submitted background documentation regarding issues relating to the efforts of Presidents Clinton and Bush, and other top government officials, to persuade the Senate to accede to the UN Convention on the Law of the Sea, and some senators' resistance to taking such action. These materials do not reflect the petitioner's actions or the effects thereof.

The petitioner also submitted several new letters, all from either the Sri Lankan government or from institutions where the petitioner has worked or trained. In her second letter, [REDACTED] stated:

[The petitioner] had a critical role to play in support of the preparation of Sri Lanka's claim on the extended Continental Shelf. [The petitioner's] close collaboration with United Nations Division on Ocean Affairs and Law of the Sea has allowed him to serve as one of several legal and technical expert groups contributing to the United Nations Commission on the Limits of the Continental Shelf on examining country claims of the extended Continental Shelf.

[The petitioner] has also participated in the drafting of such documents as "Rules of Procedure of the Commission on the Limits of the Continental Shelf"; "Legal and Technical Guidelines of the Commission on the Limits of the Continental Shelf"; and "Modus Operandi of the Commission on the Limits of the Continental Shelf."

He has assisted the work of subcommittees of the Commission considering proposals by Brazil and (jointly) by Ireland, Great Britain, France and Spain on delimitation of the continental shelf in terms of the United Nations Convention on Law of the Sea.

It is very rare to find a US national who has gained the similar experience as [the petitioner] at the highest possible level on law of the sea issues. He has contributed immensely to Sri Lanka's offshore oil exploration activities by providing necessary legal framework and preparing their country claims besides he has gained the first hand experience at the highly complicated process at the United Nations.

Vice Chairman of the UN Commission on the Limits of the Continental Shelf,  
stated:

I am very familiar with [the petitioner's] work related to the Law of the Sea because of our close collaboration through the work. . . .

I was particularly impressed with [the petitioner's] contribution during the subcommittee sessions of the Commission considering proposals by Brazil and (jointly) by Ireland, Great Britain, France and Spain on delimitation of the continental shelf. He also participated in the drafting and renewing of such documents as "Rules of Procedure of the Commission on the Limits of the Continental Shelf", "Scientific

and Technical Guidelines of the Commission on the Limits of the Continental Shelf”, and “Modus Operandi of the Commission on the Limits of the Continental Shelf.”

of the UN Commission on the Limits of the Continental Shelf stated:

This is to certify that [the petitioner’s] knowledge and experience have been useful to the Commission on Limits of the Continental Shelf at the subcommittee stage in reviewing the proposals submitted by Brazil and (jointly) by Ireland, Great Britain, France and Spain on delimitation of the continental shelf. [The petitioner] also participated in the drafting and renewing of such documents as “Rules of Procedure of the Commission on the Limits of the Continental Shelf”, “Scientific and Technical Guidelines of the Commission on the Limits of the Continental Shelf”, and “Modus Operandi of the Commission on the Limits of the Continental Shelf.” . . .

[The petitioner’s] joint presentation with Dr. R. Edwards . . . analyzing geo-political aspects of continental margins at Special Session on Article 76 at the 21<sup>st</sup> Session of the Commission received much accolade from the legal and scientific academia. In fact I have been very pleased with the outcome of research work that [the petitioner] has handled at the Division.

We note the similarly worded passages in the three letters quoted above. The record contains no objective documentation of the “accolade” mentioned in [redacted] letter.

“Ad/Secretary” at Sri Lanka’s Ministry of Foreign Affairs, stated:

[The petitioner] came under the direct supervision of me when he worked as the Legal Officer (International Law) at the Ministry of Foreign Affairs in Sri Lanka. He has been a very prolific advisor in matters of international law to the Government of Sri Lanka.

. . . [The petitioner] was consulted on a regular basis in the drafting, interpretation and implementation of international agreements and treaties both bilateral and multilateral to which Sri Lanka is a party. . . .

[The petitioner] has been instrumental in helping [the] Government of Sri Lanka to amicably settle a number of disputes with neighboring countries.

Professor at the University of Peradeniya and Director of the DEOCOM Project of Sri Lanka, stated that the petitioner “has experience of leading negotiations between other countries.” [redacted] described a number of the petitioner’s activities, stating for instance that the petitioner “acted as ‘facilitator’ during negotiations [that settled an international boundary dispute] between Sri Lanka, India and Maldives.”

The director denied the petition on July 28, 2008. The director acknowledged the intrinsic merit and national scope of the petitioner's work, but found that the petitioner had failed to distinguish himself from others with similar expertise. The director stated: "the petitioner failed to submit evidence which demonstrated that his opinion [of the value of his work] was shared beyond his immediate circle of acquaintances."

The director noted that the RFE included requests for evidence addressing specific points, such as the assertion that the petitioner is "a sought after legal expert by countries around the world." Finding that the petitioner had not addressed these requests, the director cited 8 C.F.R. § 103.2(b)(14), which states that failure to submit requested evidence which precludes a material line of inquiry shall be grounds for denying the petition.

On appeal, the petitioner asserts:

I have NOT left any material line of inquiry or point, which the Service raised, unattended. I have answered every line of inquiry raised in the Request for Evidence (RFE).

The reason why it appears that I have not responded to certain lines of inquiry is because of an error on [the] part of the Service which considered [it] obligatory for me to exclusively provide a very specific document (e[.]g. Letter from the UN Commission on the limits of the Continental Shelf that it officially sought my opinion and letters of correspondence with governments other than Sri Lanka), which is most impractical for any one in this field as its [sic] simply not the way, things are done in the International setting. The impracticability [sic] of the request obligated me to seek other means of responding to the relevant lines of inquiry. The Service has failed to link the evidence I provided with the lines of inquiry raised in the RFE. I inten[d] to clearly demonstrate this link in my brief that will be submitted to you within the next 30 days.

(Emphasis in original.) As noted previously, the record contains no subsequent brief from the petitioner. Also, while the director requested documentary evidence to support the petitioner's claims, the director did not require "very specific document[s]" as the petitioner claims. The director, for instance, did not request a "[l]etter from the UN Commission on the [L]imits of the Continental Shelf." Rather, the director stated: "Please submit evidence that the UN Commission on the Limits of the Continental Shelf has officially sought your expertise and that its members have considered your opinions as authoritative." This evidence could take the form of a letter, but need not necessarily do so.

We reject the assertion that the director has arbitrarily imposed an onerous evidentiary burden. The petitioner took it upon himself to claim to be "a sought after legal expert by countries around the world." If there is international demand for the petitioner's services, some evidence of that demand ought to exist. If there is no international demand for his services, then the petitioner's claim to the

contrary is unsupported at best, and false at worst. If there exists no evidence of international demand for his services, then it is not clear how the petitioner would know of this demand. The petitioner has neither submitted nor even identified any evidence to support his claim. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Commr. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Regl. Commr. 1972)).

The petitioner asserts that the witnesses of record “are not my personal friends or simple immediate acquaintances. They are professionals of the highest caliber, whose integrity prevents them from reporting any fact biased in my favor.” The integrity of the petitioner’s witnesses is not our principal concern here. Rather, we note that the petitioner has claimed an international reputation in his field of endeavor, yet all of his witnesses have worked closely with him as teachers, supervisors or collaborators. This distribution of witnesses does not readily imply the wider reputation that the petitioner claims. When the director requested evidence to show that the petitioner’s reputation extends beyond his mentors and co-workers, the petitioner responded by submitting letters from his mentors and co-workers.

The petitioner asserts that the director failed to consider evidence of his “influence on the key international law issues affecting [the] Government of Sri Lanka and in particularly [*sic*] the law of the sea matters and the great impact [he] made at the decision making table.” The director did not dismiss this evidence. Nevertheless, the petitioner does not seek immigration benefits in order to look after the interests of Sri Lanka. The petitioner has failed to demonstrate wider applicability of his specialized knowledge. Furthermore, for every issue involving international disputes or contention, there are diplomats, attorneys, advisors and others, weighing in on every perspective of every issue. We duly acknowledge that the petitioner has engaged in high level discussions on behalf of Sri Lanka, but other qualified experts do much the same on behalf of many other countries. The petitioner has not shown how he differs from others engaged in similar work, which he must do because he seeks not only classification as a member of the professions holding an advanced degree, but also the additional benefit of a national interest waiver. Simply being a high-level government negotiator does not establish eligibility for the waiver; there exists no statutory blanket waiver for individuals in the petitioner’s field.

The only new exhibit submitted on appeal is a July 25, 2008 letter from [REDACTED]. Mr. [REDACTED] does not state his title, but he uses the letterhead of the UN High Commissioner for Human Rights, Geneva, Switzerland. [REDACTED] states:

I am writing this letter as a fellow academic in the field of international law who uses your writings in my teaching work, most recently at the Southern University of New Hampshire. I have recently read your upcoming book on application of international humanitarian law to UN Forces and found it very useful and insightful.

You are clearly an outstanding legal expert and your unique and valuable expertise in Public International Law in particular application of international Humanitarian law is essential to the development of new approach for the conflict management [*sic*]. . . .

Your outstanding qualifications are continuing to be evidenced all the way through your career. . . . It is clear to me that you are an extremely dedicated, hard-working, innovative, and talented legal expert who can deftly perform a wide variety of sophisticated techniques in legal research.

The letter includes several paragraphs describing sections of the petitioner's book, *e.g.*, "Part 1 is written for the benefit of all those involved in UN peacekeeping. . . . Chapter 5 outlines the key elements of application of international Humanitarian Law to UN Forces." The purpose of this section of the letter is not clear, because the petitioner wrote the book in question and therefore he requires no summary or description of the book's contents.

With regard to the reference to the petitioner's "upcoming book on application of international humanitarian law to UN Forces," we note that Zeilan Press, a self-publishing firm in Newton, Massachusetts, published *Application of International Humanitarian Law to United Nations Forces* in April 2007; a printed copy accompanied the petitioner's initial submission. It is not clear in what sense this book was still "upcoming" fifteen months after its publication. In any case, Mr. Mburu's letter is not strong evidence of the petitioner's influence or impact in the field of human rights law.

The record indicates that the petitioner has been dedicated and successful in his chosen field of endeavor. When asked for evidence that distinguishes him from others in the field, however, the petitioner has done little more than list his activities and establish his credentials, which beg the question of how he is distinct from others performing similar work.

As is clear from a plain reading of the statute, it was not the intent of Congress that every person qualified to engage in a profession in the United States should be exempt from the requirement of a job offer based on national interest. Likewise, it does not appear to have been the intent of Congress to grant national interest waivers on the basis of the overall importance of a given profession, rather than on the merits of the individual alien. On the basis of the evidence submitted, the petitioner has not established that a waiver of the requirement of an approved labor certification will be in the national interest of the United States.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden. This denial is without prejudice to the filing of a new petition by a United States employer accompanied by a labor certification issued by the Department of Labor, appropriate supporting evidence and fee.

**ORDER:** The appeal is dismissed.